

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Town of Red Hook

Local Law No. C (Proposed) of the year 2017

A local law placing a twelve-month moratorium on large scale commercial extractive operations in the Town of Red Hook.

Be it enacted by the Town Board of the Town of Red Hook as follows:

SECTION 1. LEGISLATIVE INTENT

The Town Board of the Town of Red Hook has authorized the Conservation Advisory Commission to recommend amendments to the Town's Zoning Law to implement the recommendations in the Town's Comprehensive Plan regarding resource protection, and specifically aquifer protection, water resources for public water supply, erosion and sediment control, extractive operations including soil mining, timber harvesting, and to study the secondary impacts of water withdrawal and surface extraction. The Town Board, through the enactment of this legislation, provides an opportunity to study and protect the aquifer, public water supplies, and agricultural resources of the Town. The enactment of this local law is designed to protect the health, safety and welfare of Town residents and to maintain the status quo to allow the Town to bring the Town's Zoning Law and Subdivision Law into conformance with the *Greenway Connections: Greenway Compact Program and Guides for Dutchess County Communities* pursuant to Chapter 17 of the Town Code.

SECTION 2. MORATORIUM

- a. A moratorium is hereby imposed from the effective date of this local law for a period of twelve (12) months on extractive operations involving (i) collection of spring waters for sale or for other than on premises use; or any water withdrawal operations for sale or for other than on premises use (ii) the use of any land for the excavation, extraction or removal of sand, gravel, clay, stone, loam, humus or topsoil for sale or exchange or for use other than on the property from which the material is extracted where the proposed project results in transport off site of more than 100 cubic yards in a 12 month period; and (iii) timber harvesting, commercial forestry or commercial logging.

b. The Planning Board shall not consider any applications for site plan review or special use permit approval, or subdivision, including any such application currently pending before the Planning Board, for matters within the scope of this moratorium for the term of this moratorium.

c. No permit shall be issued under the Red Hook Zoning Law for the construction of any new building or structure for matters within the scope of this moratorium for the term of this moratorium.

d. The Zoning Board of Appeals shall not consider any application for a use or area variance for the construction of any new principal building or accessory structure, including any such application currently pending before the Zoning Board of Appeals, for matters within the scope of this moratorium for the term of this moratorium.

e. Exemptions. This moratorium shall not apply to

- i. An application for special permit pending before the Planning Board under Section 143-102 for collection of spring waters provided that the proposed project results in transport off site of not more than the lesser of 48,000 gallons per day, and an average of 480,000 gallons in any month.
- ii. Timber operation as defined in Section 143-4.
- iii. Timber management conducted in accordance with a forest management plan approved by NYS DEC pursuant to Section 480-a of the NYS Real Property Tax Law.

SECTION 3. STATEMENT OF AUTHORITY.

This local law is authorized by the New York State Constitution, Article IX, Section 2, the provisions of the New York Municipal Home Rule Law (MHRL), the provisions of the Statute of Local Governments, the relevant provisions of the Town Law of the State of New York, the laws of the Town of Red Hook and the general police power vested with the Town of Red Hook to promote the health, safety and welfare of all residents and property owners within the Town.

SECTION 4. SUPERSESSION OF TOWN LAW

Pursuant to the authority granted in Municipal Home Rule Law section 1(ii)(d)(3) and in accordance with section 22(1) of the MHRL, this local law supersedes Sections 267-a, 267-b, 274-a and 274-b, 276, 277, 278 of the New York State Town Law.

SECTION 5. HARDSHIP WAIVER

a. The Town Board may waive the provisions of this moratorium upon the application of an owner of property upon which an extractive operation would have been a permitted principal, special permit use or accessory use in the absence of this moratorium, provided that the applicant can demonstrate, and the Town Board finds, based upon competent evidence, that, taking into account the impact of the relief on the water supply, agricultural lands, open and recreational

space, rural character, scenic view sheds, natural resources, and transportation infrastructure of the Town (1) the application of the moratorium to the applicant's property will constitute an unjust result and cause the applicant substantial economic hardship, (2) the proposed use of the property will not harm the public health, safety and welfare, and (3) the proposed use of the property is consistent with the Comprehensive Plan of the Town of Red Hook and compatible with the existing land use in the immediate vicinity of the property. The application must comply with all other aspects of the Red Hook Town Code.

b. Upon submission of written application to the Town Clerk by the property owner seeking a hardship waiver to this moratorium, the Town Board shall, within thirty (60) days of receipt of such application, schedule a public hearing. Public notice of such hearing shall be given at least five (5) days prior to the date thereof in the official newspaper of the Town. At said public hearing, the property owner, and other parties wishing to present evidence with regard to the application, shall have an opportunity to be heard, and the Town Board shall within thirty (30) days of the close of said public hearing render its decision either granting, with or without conditions, or denying the application.

SECTION 6. PENALTIES FOR VIOLATION

In the event of violation of this local law, the penalties shall be those listed in Section 143-133 of the Zoning Code of the Town of Red Hook.

SECTION 7. SEVERABILITY

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law, which can be given effect without such part or parts.

SECTION 8. EFFECTIVE DATE

This local law shall take effect immediately after it is filed with the Secretary of State as provided in section twenty-seven of the Municipal Home Rule Law.